

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In re

Seneca Management Partners, LLC,

Bankruptcy Case No. 23-20196-PRW
Chapter 11

Debtor.

**DECISION AND ORDER
DISMISSING CHAPTER 11 PETITION
*SUA SPONTE***

PAUL R. WARREN, U.S.B.J.

On May 1, 2023, at 3:58 p.m., Seneca Management Partners, LLC filed a petition under Chapter 11 of the Bankruptcy Code. (ECF No. 2). Seneca filed the petition on its own behalf, without an attorney. The petition was signed by Robert Houle, as managing member of Seneca. Mr. Houle is not an attorney licensed to practice law in New York. Because Seneca cannot proceed *pro se*, the petition must be dismissed. In the exercise of the Court's discretion, the petition is **DISMISSED**, *sua sponte*, under 11 U.S.C. § 105(a) and § 1112(b).

DISCUSSION

The filing of this Chapter 11 case is concerning. Accompanying the bare-bones petition is a letter from Robert Houle acknowledging the fact that Seneca cannot proceed without an attorney and requesting time to find counsel. (ECF No. 2-1). The petition was filed by Mr. Houle to stop a tax foreclosure sale by Ontario County, scheduled for May 2, 2023, at 10:00 a.m. The late-day filing by Mr. Houle on behalf of Seneca, *pro se*, appears to be a calculated contrivance to throw off Ontario County's foreclosure action. According to the Ontario County Treasurer's website, that contrivance was successful. Mr. Houle is no stranger to this Court, having been a debtor, individually, or as

principal of a corporate debtor in the following bankruptcy cases: *Palmyra Associates LLC*, Case No. 07-22616 (filed 10/18/07 - dismissed 12/05/2007); *Houle Property Group LLC*, Case No. 08-20132 (filed 01/21/2008 – dismissed 03/27/2008); *Robert T Houle*, Case No. 08-20330 (filed 02/15/2008 – dismissed 03/27/2008); *Houle Property Group LLC*, Case No. 08-21017 (filed 04/29/2008 – dismissed 06/26/2008); *Robert T Houle*, Case No. 08-21155 (filed 05/12/2008 – dismissed 06/26/2008); *Keuka Capital Inc.*, Case No. 09-21092 (filed 04/28/2009 – dismissed 08/12/2009); *Robert T Houle*, Case No. 10-20258 (filed 02/12/2010 – dismissed 03/01/2010); *Robert Todd Houle*, Case No. 18-20995 (filed 09/25/2018 – dismissed 01/06/2020). Mr. Houle’s dubious track record before this Court raises the spectre that this Chapter 11 filing may have been in bad faith—an issue the Court need not decide at this time.

A corporation cannot commence or appear in a proceeding *pro se*; it must appear through its attorney or not at all. *Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 22 (2d Cir. 1983) (citing *Shapiro, Bernstein & Co. v. Continental Record Co.*, 386 F.2d 426, 427 (2d Cir. 1967) (“it is settled law that a corporation cannot appear other than by its attorney”)). Here, Seneca filed its Chapter 11 petition without an attorney. The petition is viewed by this Court as a legal nullity. *See Chiacchia v. Schitkedanz*, No. 1:11-cv-00837-MAT-HKS, 2016 U.S. Dist. LEXIS 68953, at *5 (W.D.N.Y. May 25, 2016) (Telesca, J.). “Papers, including petitions, filed by a corporate debtor which has no attorney of record, may be received but later dismissed, *sua sponte*, by the Judge to whom the case is assigned.” *In re Encore Prop. Mgmt. of W.N.Y., LLC*, Case No. 17-21325, 2017 Bankr. LEXIS 4265, at *2 (Bankr. W.D.N.Y. Dec. 15, 2017).

To mitigate the potential prejudice to creditors, the Court acts both *sua sponte* and expeditiously in dismissing the petition, under 11 U.S.C. § 105(a), and for cause under 11 U.S.C. § 1112(b). The Chapter 11 filing fee will *not*, however, be refunded. While Seneca lacked the legal authority to file this petition, the filing was not a “mistake”—it was most assuredly calculated to derail

the tax foreclosure action. The petition was promptly processed by the Clerk's Office and promptly addressed by the Court. The fee was properly received under 28 U.S.C. § 1930(a)(3). The petition is **DISMISSED**, *sua sponte*.

IT IS SO ORDERED.

Dated: May 2, 2023
Rochester, New York

_____/s/_____
HON. PAUL R. WARREN
United States Bankruptcy Judge